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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/924,278

08/07/2001

Chang Ahn

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10/13/2006

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EXAMINER

HSU, ALPUS

ART UNIT

PAPER NUMBER

2616

DATE MAILED: 10/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/924,278

Applicant(s)

AHN ET AL.

Examiner

Alpus H. Hsu

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2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-46 and 48-53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-8, 10-19, 30-39, 49, 50, 52 and 53 is/are allowed.
- 6) ☒ Claim(s) 20-29, 40, 41, 48 and 51 is/are rejected.
- 7) ☒ Claim(s) 42-46 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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1. Applicant's arguments with respect to claims 20-29, 40, 41 and 48 have been considered but are moot in view of the new ground(s) of rejection.

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 20-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 20-29 are directed to a **machine-readable** storage medium tangibly embodying a sequence of instructions executable by the **machine**, which do not fall into any statutory subject matter.

To overcome the rejection, the following examples of acceptable language in computer-processing related claims is suggested:

- (A) "A computer readable medium" encoded with _____
- [a] "a computer program"
 - [b] "software"
 - [c] "computer executable instructions"
 - [d] "instructions capable of being executed by a computer"

- (B) "A computer readable medium" _____ "computer program"
- [a] storing a
 - [b] embodied with a
 - [c] encoded with a
 - [d] having a stored
 - [e] having an encoded

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 40, 41, 48 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over GIBSON in U.S. Patent No. 6,678,264 B1 (of record), hereinafter referred to as GIBSON.

Referring to claims 40, 41, 48 and 51, by broadly interpreting the measures of preference (for example, ranks) as the claimed credit values, GIBSON discloses an apparatus, comprising: a receiver to receive data units frames over a multi-link data connection; a transmitter to send data units over the multilink data connection, the multilink data connection containing a set of individual links given a set of credit values (ranks) based on speed of data transmission and current level of data traffic for each link (see col. 2, lines 20-36, col. 3, lines 9-18, col. 5, lines 35-53).

GIBSON differs from the claims, in that, it does not disclose the condition when two links have the same credit value, a data unit is sent over the link that has a slower speed of data transmission, which is well known in the art and commonly applied in communications field for providing priority-based bandwidth allocation, which is well within the level of ordinary skill artisan to implement into the system in GIBSON to further improve the system efficiency.

7. Claims 1-8, 10-19, 30-39, 49, 50, 52 and 53 are allowed.

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8. Claims 42-46 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hluchyj et al., Barkey et al., Rasanen et al., Marin et al., Parruck et al., Krishnan et al., Yang et al. and Hashem et al. are additionally cited to show the multi-channel data transfer utilizing parallel subchannels for data transmission similar to the background of the invention.

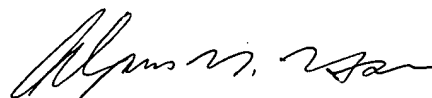
10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alpous H. Hsu whose telephone number is (571)272-3146. The examiner can normally be reached on M-F (5:30-3:00) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wellington Chin can be reached on (571)272-3134. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AHH

A handwritten signature in black ink, appearing to read "Alpus H. Hsu".

Alpus H. Hsu
Primary Examiner
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